

IN THE FIFTH JUDICIAL DISTRICT COURT, COUNTY OF IRON, STATE OF UTAH.

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R. E. CALDWELL,  
State Engineer of Utah,  
  
Plaintiff,

vs.

DAVID L. DAVIS, PAUL ARNOLD GRAFF,  
KANARRA FIELD RESERVOIR & IRRIGATION  
COMPANY, a Corporation, W. C. REEVES,  
JOSIAH REEVES Estate, JAMES STAPLEY,  
JAMES S. STAPLEY, JOHN STAPLEY, RICHARD  
A. THORLEY, JAMES W. WILLIAMS, L. J.  
WILLIAMS, WALLACE WILLIAMS,

Defendants.

D E C R E E

Temp. Exhibit No.

Utah Exhibit No.

Ident. Adm.

This case having been duly submitted to the court on stipulation signed by all parties, and it appearing from said stipulation and from the records of this case that all parties have consented to the determination of water rights as made by the State Engineer of the State of Utah under the provisions of Chapter 67, Session Laws of 1919, State of Utah, and have consented that the provisions of said determination be made the decree of this court, and it further appearing that it is the desire of all parties that this court retain jurisdiction of the waters of Kanarra Creek for a period of five years from the date hereof for the purpose of determining the proper duty of water,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT:

I.

That Kanarra Creek is a natural stream which with its tributaries rises in and flows through Iron County, Utah, said stream rising in the mountains east of the town of Kanarra and flowing in a westerly direction through the said town and is used for domestic purposes and to irrigate tracts of land in and about Kanarra, Utah; that said creek is a fluctuating stream and that all of the waters thereof are of such quality that they may be applied to beneficial uses for culinary, domestic and other purposes; and that all of the waters of said stream and its tributaries are within the jurisdiction of this court.

II.

That notwithstanding this decree and any rights hereinadjudged and decreed

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to any of the parties to this action, no such party or water user from said stream shall at any time divert more water than can be beneficially used and the waste of water is hereby prohibited.

### III.

That any right herein decreed for irrigation purposes shall include with such right the right to the use of water for domestic and culinary purposes for and during the period covered by the right to use such water for irrigation purposes unless such right for domestic and culinary purposes is otherwise specifically set forth in this decree.

### IV.

That all rights herein decreed which are founded upon application made to the State Engineer under the provisions of statute in such cases made and provided, are hereby made subject to compliance with the terms of said applications and to the submission of proof thereon as provided by statute.

### V.

Nothing in this decree shall be construed as limiting or depriving any of the parties hereto of the right to enter into agreements for the distribution of the water herein decreed providing such agreements do not interfere with or infringe upon the rights of other parties to the use of water from Kanarra Creek and do not permit the waste of water.

### VI.

That this decree shall not affect the validity of any transfers of title to water rights made subsequent to the filing of claims by the parties hereto, but that any assignee of water rights herein decreed shall take the same with all of the rights herein decreed to his assignor.

### VII.

That the right to the use of water from Kanarra Creek is hereby decreed to be as set forth in the following:

#### SCHEDULE OF RIGHTS

##### Definitions

"c.f.s." is used throughout this decree to designate a flow of one cubic foot of water per second of time.

"ac.ft." is used throughout this decree to designate a quantity of water sufficient to cover an area of one acre to a depth of one foot, or 43,560 cubic feet of water.

"duty" is used throughout this decree to designate the number of acres one "c.f.s." direct flow is required to irrigate, or the amount of stored water in "ac.ft." required to irrigate one acre.

Date of Priority	Class	Acreage	Duty	Amount
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Point of Diversion and Place of Use.
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1. KANARRA FIELD RESERVOIR & IRRIGATION CO., Kanarra, Iron Co., Utah.  
1864 1 547.2 60 9.12 c.f.s.

Period of Use - Mar. 1 to Nov. 30

81-2501  
Said water to be diverted from Kanarra Creek at a pt. 1950 ft. E. and 1320 ft. S. of the NW cor. of Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. and used to irrigate 547.2 acres of land described as follows: 71 town lots or 63.9 acres, parts of E $\frac{1}{2}$  Sec. 34, T. 37 S., R. 12 W., 483.3 field acres, parts of S $\frac{1}{2}$  SW $\frac{1}{4}$  Sec. 27, E $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$  Sec. 33, W $\frac{1}{2}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$  Sec. 34, T. 37 S., R. 12 W.; NE $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 4, N $\frac{1}{2}$ NW $\frac{1}{4}$  Sec. 3, T. 38, S., R. 12 W., S. L. B. & M.

2. JOSIAH REEVES, ESTATE, Care of W. C. Reeves, Kanarra, Iron Co., Utah.  
1893 2 13.0 60 0.22 c.f.s.

Period of Use - Mar. 1 to Nov. 30

81-2543 & 81-2544  
Said water to be diverted from Kanarra Creek at a pt. S. 55°50' E. 2390 ft. from the NW cor. of Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. and used to irrigate 13.0 acres of land described as follows: 8.6 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ , 4.4 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 34, T. 37 S., R. 12 W., S. L. B. & M.

3. JAMES STAPLEY, Heirs of, Care of James S. Stapley, Kanarra, Iron Co., Utah.  
1893 2 16.3 60 0.27 c.f.s.

Period of Use - Mar. 1 to Nov. 30

81-1143  
Said water to be diverted from Kanarra Creek at a pt. 660 ft. S. and 83 ft. E. of the NE cor. of Sec. 8, T. 38 S., R. 12 W., S. L. B. & M. and used to irrigate 16.3 acres of land located in Sec. 17, T. 38 S., R. 12 W., S. L. B. & M.

4. RICHARD A. THORLEY, Kanarra, Iron Co., Utah.  
1900 2 90.0 60 1.50 c.f.s.

Period of Use - Mar. 1 to Nov. 30

Said water to be diverted from Kanarra Creek at a pt. 330 ft. N. and 116 ft. E. of the NW cor. of Sec. 31, T. 38 S., R. 12 W. and used to irrigate 90 acres of land located in Secs. 30 and 31, T. 38 S., R. 12 W., S. L. B. & M.

Water rights No. 1 to No. 4 inclusive are known as "Diligence Rights" or rights acquired prior to the organization of the State Engineer's office in 1903. Said rights are designated Class 1 and 2 and are entitled to the full amount of their respective rights except as hereinafter provided from Mar. 1 to Nov. 30 of each year when the flow of Kanarra Creek as measured above the town of Kanarra amounts to 9.12 c.f.s. or less, said flow shall be distributed to the Kanarra Field Reservoir and Irrigation Co. (Water Right No. 1). During said period when the said flow is in excess of 9.12 c.f.s. and not in excess of 9.34 c.f.s., the excess flow over and above 9.12 c.f.s. shall be distributed to Josiah Reeves Estate (Water Right No. 2).

Water Rights No. 3 and 4 are supplied with water seeping into Kanarra Creek from irrigated lands at Kanarra or after flowing into Kanarra Creek from tributary creeks or washes below the town of Kanarra, and have no right to any of the flow of Kanarra Creek as measured above the town of Kanarra.

During said period when the flow of Kanarra Creek as measured above the town of Kanarra exceeds 9.34 c.f.s., the excess flow over and above 9.34 c.f.s. shall be distributed to the owners of rights, acquired by application to the State Engineer in the order of their respective priorities as follows:

<u>File Number</u>	<u>Priority Date</u>	<u>Water Used</u>	<u>Point of Diversion and Place of Use.</u>
FILE CHANGES AND ABSTRACT ON FILE 5. <del>PAUL ANDERSON</del> <del>GRANT</del> , Kanarra, Iron Co., Utah. 2483 <del>not</del> 374 <i>or - 566mnd -</i>	June 4, 1908	2.00 c.f.s.	8/- 23/ Said water to be diverted from Kanarra Creek at a pt. 1950 ft. E. and 1320 ft. S. of the NW cor. of Sec. 35, T. 37 S., R. 12 W., S.L.B. & M. and used to irrigate 144.32 acres of land described as follows: parts of the SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 27, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 34, T. 37 S., R. 12 W., S. L. B. & M. Certificate issued No. 374.
6. RICHARD A. THORLEY, Kanarra, Iron Co., Utah. 4078 <del>not</del> 434	June 26, 1921	1.05 c.f.s.	8/- 229 Said water to be diverted from Kanarra Creek, Dry Creek and Camp Creek at a pt. N. 47°00' W. 1962 ft. from the NW cor. of NE $\frac{1}{4}$ Sec. 31, T. 38 S., R. 12 W., S. L. B. & M. and used to irrigate 52.38 acres of land described as follows: Lots 1 and 2, Sec. 31, T. 38 S., R. 12 W., S. L. B. & M. Certificate issued No. 424.
7. JOSIAH REEVES ESTATE, in care of W. C. Reeves, Kanarra, Iron Co., Utah. 4081 <del>not</del> 761	June 27, 1911	0.951 c.f.s.	8/- 232 Said water to be diverted from Kanarra Creek at a pt. S. 55° 50' E. 2390 ft. from the NW cor. of Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. and used to irrigate 66.59 acres of land described as follows: 24.95 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ , 10.5 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 26, 9.95 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, 18.11 acres S $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 27 and N $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 34, T. 37 S., R. 12 W., S. L. B. & M. Certificate issued No. 761.
8. <del>GUSTAV H. PINGEL</del> , and <del>JOHN H. WILLIAMS</del> , Kanarra, Iron Co., Utah. 4789 <del>not</del> 383	July 8, 1912	1.47 c.f.s.	8/- 237 (Sold by J. W. Williams) (1.32 c.f.s. to Gustav H. Pingel for 87.77 acres.) (.15 c.f.s. to John H. Williams for 10 acres.) Said water to be diverted from Kanarra Creek at a pt. S. 55° 42' E. 2438 ft. from the NW cor. of Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. and used to irrigate 97.77 acres of land described as follows: W $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 26 and N $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 27, T. 37 S., R. 12 W., S. L. B. & M. Certificate issued No. 383.
9. JAMES S. STAPLEY, Kanarra, Iron Co., Utah. (a) 7360 <del>not</del> 1632 June 15, 1917		10.00 c.f.s.	8/- 74 Said water to be diverted from Kanarra Creek at a pt. S. 55°50' E. 2390 ft. from the NW cor. of Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. into the Reeves West Ditch, conveyed a distance of 5,000 ft., thence into the Kanarra Field Wash and conveyed
	Period of Use - Mar. 1 to Oct. 31		
	Period of Use - Jan. 1 to Dec. 31		

File Number

Priority Date

Water Used

Point of Diversion and Place of Use.

(b) 7361

June 15, 1917

1000 ac. ft.

Period of Storage - Jan. 1 to Dec. 31  
Period of Use - Mar. 1 to Oct. 31

a distance of 19,000 ft. and redirected at a pt. 660 ft. S. and 83 ft. E. of the NE cor. of Sec. 8, T. 38 S., R. 12 W., S. L. B. & M. and used to irrigate 690 acres of land described as follows: W. 40 acres Sec. 9, W. 10 acres NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Sec. 16, SE<sup>1</sup>/<sub>4</sub> Sec. 8, NE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Sec. 17, and NW<sup>1</sup>/<sub>4</sub> Sec. 20, T. 38 S., R. 12 W., S. L. B. & M. Proof of appropriation due June 30, 1922.

Said water to be diverted as set forth above and stored in a reservoir embraced in the E<sup>1</sup>/<sub>2</sub> NE<sup>1</sup>/<sub>4</sub> Sec. 8, T. 38 S., R. 12 W., S. L. B. & M. Said water to be released as required flowing down the natural channel a distance of 3069 ft. to a re-diversion point 825 ft. N. and 1187 ft. E. of the S<sup>1</sup>/<sub>4</sub> Cor. of Sec. 8, T. 38 S., R. 12 W. and used to irrigate 640 acres of land described as follows: SE<sup>1</sup>/<sub>4</sub> Sec. 8, NE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Sec. 17, and NW<sup>1</sup>/<sub>4</sub> Sec. 20, T. 38 S., R. 12 W., S. L. B. & M. Proof of appropriation due June 30, 1922.

10. PAUL ARNOLD GRAFF, Kanarra, Iron Co., Utah.  
7745 May 31, 1918 350 ac. ft.

Period of Storage - Jan. 1 to Dec. 31  
Period of Use - Mar. 1 to Oct. 1

Said water to be stored in a reservoir on the natural channel of Kanarra Creek inundating 18.2 acres of land, the center of the impounding dam bearing S. 54°42' E. 2496 ft. from the NW cor. of Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. Said water to be released as required into the natural channel of Kanarra Creek and diverted at a pt. S. 55°42' E. 2438 ft. from the NW cor. of Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. and used to irrigate 142 acres of land described as follows: NE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Sec. 27, NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Sec. 26, T. 37 S., R. 12 W., S. L. B. & M. Proof of appropriation due Oct. 20, 1922.

11. A. LAMAR GRAFF, Kanarra, Iron Co., Utah.  
8491 Mar. 29, 1920 960 ac. ft.

Period of Storage - Jan. 1 to Dec. 31  
Period of Use - Apr. 15 to Oct. 1

Said water is to be stored in a reservoir inundating 18.2 ac. of land, the center of the impounding dam bearing S. 54°42' E. 2496 ft. from the NW cor. Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. Said water to be released as required into the natural channel of Kanarra Creek and diverted at a pt. S. 55°42' E. 2438 ft. from the NW cor. of said Sec. 35, and used as a supplementary supply to application File No. 7745 and to irrigate 320 acres in the E<sup>1</sup>/<sub>2</sub> and W<sup>1</sup>/<sub>2</sub> E<sup>1</sup>/<sub>2</sub> Sec. 23, T. 37 S., R. 12 W., S. L. B. & M.

<u>File Number</u>	<u>Priority Date</u>	<u>Quantity of Water Used</u>
12. JOHN H. AND G. B. WILLIAMS, Kanarra, Iron Co., Utah. 8551	June 5, 1920	10,000 c.f.s.
Period of Use - Jan. 1 to Dec. 31		

Point of Diversion and Place of Use.

Said water to be diverted from Kanarra Creek at a pt. S. 57° 22' E. 2380 ft. from the NW cor. of Sec. 35, T. 37 S., R. 12 W., S. L. B. & M. and used to irrigate 430 acres of land described as follows: W½NW¼, E½W½SW¼, Sec. 23, N½NE¼, 30 ac. of SW¼NE¼, NE¼NW¼, SE¼NW¼, N. 8 acres of NE¼SW¼, NW¼SW¼ Sec. 26, E. 11 ac. of SE¼SE¼ and E. 11 acres NE¼SE¼ Sec. 27, T. 37 S., R. 12 W., S. L. B. & M. Proof of appropriation due Dec. 1, 1923.

VIII.

That James W. Williams and Wallace Williams, parties defendant to this suit, having been duly served with Notice and Summons and having either filed disclaimer or no answer, motion or other appearance or pleading herein, are determined to have no right, title, interest or claim in or to any of the waters of Kanarra Creek except as stock holders in the Kanarra Field Reservoir and Irrigation Company, or by contract or agreement with one or more of the parties, determined as having the right to the use thereof.

IX.

That L. J. Williams, David L. Davies and W. C. Reeves, parties defendant, having filed claims in and to the use of water from Kanarra Creek are determined as having no right, title, interest or claim in or to any of the waters of Kanarra Creek, except as stockholders in the Kanarra Field Reservoir and Irrigation Company or by contract or agreement with one or more of the parties determined as having the right to the use thereof or by succeeding to the title thereof.

Dated March 8th, 1923.

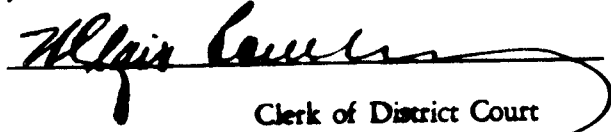
WILLIAM F. KNOX  
\_\_\_\_\_  
Judge.

# CERTIFICATE

STATE OF UTAH       )  
                              : ss  
County of Iron       )

I, W. Clair Rowley, County Clerk and ex-officio Clerk of the Fifth  
Judicial District Court in and for Iron County, hereby certify that the foregoing is a full, true  
and correct copy of the original D E C R E E In Civil Action No. 150, entitled  
R. E. CALDWELL, State Engineer of Utah, Plaintiff, -vs- DAVID L. DAVIS, et al.,  
Defendants,  
now on file and of record in my office.

WITNESS my hand and the seal of my said office in Parowan, Iron County,  
Utah this 21st day of June, 19 57.

  
Clerk of District Court  
Iron County, Utah